

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

25-0519.2

HB 502, relative to complete corporate reporting for unitary businesses under the business profits tax and revenues from the state education property tax.

Ways and Means

This bill:

I. Repeals the water's edge combined group provisions of the business profits tax.

II. Requires the department of revenue administration to receive the revenues from the state education property tax and deposit them in the education trust fund.

III. Revises the procedures for calculating state education grants.

IV. Modifies the criteria for relief under the low- and moderate-income homeowners property tax relief program

V. Establishes a committee to study the low- and moderate-income homeowners property tax relief program. reduces the rate of the business enterprise tax for tax years ending on or after December 31, 2026.

The proposed legislation changes the water's edge method of taxation for unitary business groups under the Business Profits Tax (BPT) to complete corporate reporting (also known as worldwide combined reporting), effective January 1, 2026, for taxable periods beginning after December 31, 2025. A unitary business group under complete corporate reporting, unlike a "water's edge combined group," includes foreign incorporated business organizations and so-called "80/20 companies" with 80% or more of the average of their payroll and property outside the United States. Such an overseas business organization is still subject to BPT under the water's edge method as a separate entity, provided that the business organization by itself is engaged in business activity in New Hampshire.

The Department assumes that in moving to complete corporate reporting it will be faced with practical constraints, such as obtaining access to the books and records of foreign parent companies, handling increased document production volumes, acquiring or developing personnel with competencies in foreign languages and/or foreign accounting practices, converting foreign currency-denominated assets into their dollar equivalent, and determining taxable business profits without starting from federal taxable income (because under the federal Tax Cuts and Jobs Act of 2017, the United State moved to a more territorial or water's edge system of taxation), incurring additional travel expense, and managing foreign travel logistics.

It is not clear how the Department could fully implement the bill in light of these issues:

Section 4 looks to the United States Internal Revenue Code (IRC) in determining the combined net income of a unitary group under worldwide combined reporting. The IRC, however, with the Tax Cuts and Jobs Act of 2017, has moved from a worldwide system to

a more territorial system of taxation. Federal taxable income may not always be the right starting point for calculating BPT.

The authorization in Section 5 more appropriately belongs in RSA 77-A:2 on imposition of tax and/or RSA 77-A:6 on combined reporting.

The definition of “foreign dividends” being amended in Section 6 is not required because worldwide combined reporting includes foreign earnings.

Education Funding

The proposed legislation also addresses a number of aspects of education funding, as follows.

Section 2 of the proposed legislation would require municipalities to collect the statewide education property tax (SWEPT) and remit the SWEPT in full to the DRA for deposit into the ETF, after deducting a 3% municipal processing fee.

The DRA believes that these changes will require development of forms and modification of the DRA’s Revenue Information Management System (RIMS) and Granite Tax Connect portal (GTC), which is utilized by taxpayers to submit payments to DRA.

Section 3 of the proposed legislation modifies the language concerning the Low- and Moderate-Income Homeowners Property Tax Relief (L&M) program required to be included on each property owner’s tax bill.

Section 7 of the proposed legislation would amend RSA 198:39, II to permit the deposits required by Section 2.

Section 8 of the proposed legislation would amend RSA 198:57, III and IV to expand the L&M program to permit rebate of local as well as statewide education tax; to raise household income limits on eligibility; to lower the property value factor used for the rebate calculation; to adjust the income brackets used for the rebate calculation; and to set annual per-claimant and aggregate caps on payments.

Section 8 of the proposed legislation would also change the residency date for eligibility purposes to the date of the final tax bill as defined in RSA 76:1-a.

Section 9 of the proposed legislation would add new RSA 198:57, VII requiring the Commissioner to annually inflation-adjust the dollar amounts changed in Section 8.

Section 10 of the proposed legislation would establish a committee to study specific aspects of the L&M program with support from the DRA Commissioner, to report its findings by November 1, 2025.

Section 11, paragraph VII of the proposed legislation would remove the SWEPT to be collected from the education grant calculation for a municipality.

The study committee provision of the proposed legislation would become effective upon the date of the proposed legislation’s passage. The remainder of the provisions of the proposed legislation would take effect January 1, 2026, for taxable periods beginning after December 1, 2025.

The applicable SWEPT year for the proposed legislation as written would thus be property tax year 2026, beginning April 1, 2026. However, pursuant to RSA 76:8, DRA is statutorily required to issue SWEPT warrants for that tax year not later than December 15, 2025, at which time the

proposed legislation would not yet be in effect. DRA suggests that the effective date of Section 2 of the proposed legislation be changed to July 1, 2025, to avoid this issue.

Complete Corporate Reporting

The fiscal impact of the proposed legislation as it pertains to complete corporate reporting is indeterminable. The Department cannot estimate the BPT liability for a unitary business group under complete corporate reporting because it does not know their combined net income, the additions and deductions provided in RSA 77-A:4 for members of the group, or the group’s apportionment percentage as provided in RSA 77-A:3. Although a water’s edge system of taxation, the BPT is still imposed on foreign dividends paid by foreign subsidiaries to United States parent companies, and for taxable periods beginning on or after January 1, 2020, on global intangible low-taxed income (GILTI). It also applies to any overseas business organization that by itself is engaged in business activity in New Hampshire, but as a separate entity. There would be “winners and losers” depending on the proposed legislation’s effects on the tax base and apportionment.

Since the change would first apply to taxable periods beginning after December 31, 2025, and effective January 1, 2026, the fiscal impact will begin occurring when calendar taxpayers make estimated payments in April and June of fiscal year 2026.

To implement the bill, the Department will need to develop an auditing program for foreign businesses. For this purpose, the Department anticipates needing an additional 3 unclassified auditor positions at the total position cost noted below. The Department also anticipates incurring additional travel costs as well as costs for contracted services needed to acquire the necessary foreign language and foreign tax expertise as described above. It should be noted that auditing costs are, to some degree, scalable according to the degree of auditing work engaged in by the Department. Robust auditing tends to increase revenue from a tax, while minimal auditing allows for greater degrees of noncompliance. In identifying auditing costs, the Department has assumed its audit work will be moderate in the beginning and that New Hampshire will need to develop an auditing program for complete corporate taxpayers independently, as no other state has yet fully embraced this type of reporting. If and when additional states adopt complete corporate (or worldwide combined) reporting, it is possible cost savings could be achieved through interstate cooperation and information sharing. The Department assumes it will begin to incur these costs in FY 2026.

	FY2026	FY2027	FY2028
Auditor Salary and Benefits (UNCL DD, with annual steps and benefits calculated using the Position Cost Worksheet)—3 positions	\$339,000	\$363,000	\$381,000
Travel	\$75,000	\$112,500	\$112,500
Contracted Services (increasing 5% per year)	\$750,000	\$787,500	\$826,875
Total	\$1,164,000	\$1,263,000	\$1,320,375

Education Funding

Under current law, each municipality collects SWEPT on behalf of the state totaling approximately \$363 million and retains the SWEPT locally to fund the State's portion of education funding. Although, the SWEPT is locally retained, the total amount of SWEPT collected by the municipalities is still recognized by the State as revenue to the Education Trust Fund (ETF). Section 2 of the proposed legislation would instead require the municipality to collect the SWEPT and remit the SWEPT in full to the DRA for actual deposit into the ETF, after deducting a 3% municipal processing fee. As a result of this 3% municipal processing fee, the proposed legislation will result in a reduction in revenue to the ETF of \$10.9 million. Section 2 is effective January 1, 2026 (which DRA requests be changed to July 1, 2025.) The DRA interprets either proposed effective date as first impacting property taxes assessed on April 1, 2026, and collected via the final property tax bill in the fall of 2026. The proposed legislation would therefore begin impacting ETF revenue in FY 2027.

Additionally, under RSA 198:41, the education grant to municipalities (an ETF expenditure) is currently net of the amount of the SWEPT warrant. Section 11 of the proposed legislation would result in the full education grant to municipalities being awarded for all municipalities with no reduction for SWEPT collected. However, because the SWEPT revenue is being deposited directly into the ETF, there will be no change, except to the extent that SWEPT paid into the ETF exceeds education grants paid out of the ETF.

The DRA is unable to calculate the fiscal impact of this change for FY 2027 and forward because it does not yet have DOE's adequacy calculations for those years. However, for FY 2026, had the proposed legislation been in effect, DOE's adequacy calculations indicate that approximately \$28.6 million in SWEPT in excess of the education grants for adequacy would have been deposited to the ETF and not returned in grants.

The DRA believes that it could administer section 2 of the proposed legislation without any new positions. However, there would be an indeterminable cost associated with developing forms and modifying systems as described including implementing the electronic filing and payment mechanism that would be required to facilitate payment of the SWEPT over to DRA. Therefore, the DRA estimates a cost of \$300,000 to be incurred in FY 2026.

The DRA is unable to determine the fiscal impact of Sections 8 and 9 of the proposed legislation because it does not have all the data needed to calculate the fiscal impact. The proposed legislation would increase the maximum qualifying household income, decrease the maximum qualifying homestead value, and adjust the income brackets for award determination, all with respect to the amount of tax relief available to the claimant. Additionally, the proposed legislation would impose a cap on payments of \$30 million in aggregate and \$1,100 per claimant and would change the residence date for eligibility to the date of the final tax bill. These changes are to be effective January 1, 2026. The DRA interprets this proposed effective date as first impacting property taxes assessed on April 1, 2026. The application period for this taxable period will begin on May 1, 2027, with rebates being made starting in FY 2028. The changed eligibility date will permit taxpayers who purchase property during the tax year to apply for L&M relief during their first partial year of home ownership.

The DRA is not sure how these changes will impact the number of claimants, or the relief amounts which on average and in the aggregate have not yet come near to the capped amounts. However, DRA believes that the expansion of the L&M program to include the rebate of local as well as statewide education property tax would result in an indeterminable increase in state expenditures. By way of estimation, DRA believes such expenditure might at least double, when analyzed as follows. Looking at data available from DOE for tax year 2020, SWEPT revenue was \$363 million and local education tax revenue was \$2,141 million. In the 2021 claim year (during which rebates were awarded for SWEPT payments in tax year 2020), L&M rebates of \$1.4 million were awarded to 5,821 claimants, for an average of \$241 per claimant. Since the eligibility criteria in the proposed legislation is the same for both state and local education property taxes, and since local education property taxes were several times greater than SWEPT, it is reasonable to assume that the same claimants who received SWEPT rebates would have received an identical local education property tax rebate had the proposed legislation's expansion to local taxes been in place during tax year 2020. While it is not possible to know exactly how much additional local tax revenue might be eligible for rebate, it is reasonable to assume that the expansion of the L&M program to include local education property tax would at least double the amount of rebates paid.